



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group
Art Unit: 3765

Attorney
Docket No.: 121043-003

Applicant: Akiko SAITO et al.

Invention: DISPOSABLE SURGICAL GOWN

Serial No: 10/050,242

Filed: January 16, 2002

Examiner: Gloria Hale

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on June 23, 2004

Michael S. Gzybowski

BRIEF ON APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Further to appellants' Notice of Appeal filed March 23, 2004 in connection with the above-identified application, appellants submit the present Brief on Appeal.

REAL PARTY IN INTEREST

Appellants have assigned this application to Uni-Charm Corporation in an assignment which was executed by the inventors on December 26, 2001 and December 27, 2001, and filed in the

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United States Patent and Trademark Office on January 16, 2002, and recorded on January 16, 2002 at Reel No. 012504 and Frame No. 0242.

RELATED APPEALS AND INTERFERENCES

There are no related applications that are on appeal or involved in any interference.

A Petition For Office Action and Refund of Extension of Time and Notice of Appeal Fees was filed May 28, 2004.

STATUS OF CLAIMS

Claims 1-17 are pending in this application. Claims 1-4 stand under final rejection, from which final rejection of claims 1-4 this appeal is taken. Claims 5-11 stand as being objected to as depending upon a rejected base claim. Claims 12-17 have been allowed. No other claims are pending.

STATUS OF AMENDMENTS

An Amended After Final Rejection was filed on December 16, 2003. A Supplemental Amendment After Final Rejection was filed on February 9, 2004. Neither Amendment After Final was entered by the examiner.

SUMMARY OF INVENTION

The present invention is directed to a disposable surgical gown that, as shown in Fig. 3 and described in the paragraphs on page 9 of appellants' specification, has a main body that includes a front body 4, a back body that includes left and right back bodies 5A and 5B and sleeves 3A and 3B.

Figure 3 depicts the gown in a disassembled state. The various assembly sheets of the gown (shown separated in Fig. 3) are bonded to each other exclusively along edges of the assembly sheets to produce the formed or assembled gown depicted in Fig. 2.

Figures 6-15 depict different bonding patterns. In each instance there is a continuous bonding line that extends along the edges of the sheets. As shown in Figs. 6-15 the bonding line can be a linear or straight bonding line, a wave-shaped bonding line, a zigzag bonding line, a lattice-shaped bonding line, a spiral bonding line, or a combination thereof. In addition, a plurality of discontinuous bonding portions can be arranged adjacent the continuous bonding line as shown, for example, in Fig. 6.

As discussed in the full paragraph on page 10 of appellants' specification, the bonding of the edges of the sheet can be affected using ultrasonic fusion or an adhesive.

ISSUE

Whether claims 1-4 are anticipated by King et al. under 35 U.S.C. §102(b).

GROUPING OF CLAIMS

Claims 1-4 stand rejected under 35 U.S.C. §103(b) as being unpatentable over King et al. and therefore stand or fall together.

THE REFERENCES

The following reference is relied upon by the examiner:

U.S. 4,504,977

King et al.

Mar. 19, 1985

BRIEF DESCRIPTION OF THE REFERENCES

King et al. discloses a disposable surgical gown that includes a patch 20 that is provided to cover a central operative region 25 of the gown. The provision of the patch 20 addresses a concern that is discussed in the paragraph bridging columns 3-4 of King et al. The concern is that the “central operative region 25 is frequently subjected to increased pressure during an operation due to the wearer contacting the operating table or patient with this region of the gown.” “If liquids such as water, blood, serum, etc., are also contacted by central operative region 25 of gown 10, as often happens, there is an enhanced possibility of liquid penetration (strike-through) of the normally water-repellent base gown material.”

The patch 20 is provided to prevent liquid penetration in the operative region 25 of King et al.

THE REJECTIONS

Claims 1-4 stand rejected under 35 U.S.C. 103(b) as being anticipated by King et al.

The examiner has relied upon King et al. as disclosing:

...a surgical gown (10) which a main body (14-16) having a front (14), back portion (15, 16) as seen in figure 1 and a plurality of sheets, the main gown layer (25) and the patch (20) with adhesive strips (28), which are straight and linear and which bonds the sheets together along in continuous bonding line extending along edges of the sheet as seen in figure 2.

The examiner states that the sheets are exclusively adhered to each other.

In regard to claim 4 the examiner states that:

...there are a plurality of discontinuous bonding portions, the adjacent adhesive bonding lines, adjacent to the continuous bonding line on the left of figure 2, as broadly claimed.

ARGUMENT

It is respectfully submitted that the King et al. does not anticipate appellants' claimed invention under 35 U.S.C. §102(b) inasmuch as King et al. fails to teach each and every one of the limitations of appellants' pending claims.

As noted above, the examiner has relied upon King et al. as disclosing:

...a surgical gown (10) which a main body (14-16) having a front (14), back portion (15, 16) as seen in figure 1 and a plurality of sheets, the main gown layer (25) and the patch (20) with adhesive strips (28), which are straight and linear and which bonds the sheets together along in continuous bonding line extending along edges of the sheet as seen in figure 2.

The examiner stated that the sheets are exclusively adhered to each other.

Appellants' independent claim 1 requires, in part, that the assembly sheets are:

...bonded to each other exclusively along edges of the sheets using a continuous bonding line that extends along edges of the sheets.

On page 3 of the Final Rejection the examiner stated that:

The present claim does not specifically state that the sheets are adhered or bonded to each other only along the perimeter edges but confuses the reader to translate that the claim states that 'only the sheets alone are exclusively connected to each other' between each two sheets.

The examiner's position is somewhat confusing, because she is taking the position that the language of independent claim 1 can be interpreted in two different ways. A comparison of the actual claim language and the examiner's alternative interpretation is as follows:

<u>Actual Claim Language</u>	<u>Examiner's Alternative Interpretation</u>
...the assembly sheets being bonded to each other exclusively along edges of the sheets using a continuous bonding line that extends along edges of the sheets.	Only the [assembly] sheets alone are exclusively connected to each other.

The examiner's alternative interpretation of the actual language of claim 1 fails to account for the claim reference to "edges of the sheet" in the context of the language "the assembly sheets being bonded to each other exclusively along edges of the sheets."

In order to interpret the claim language “the assembly sheets being bonded to each other exclusively along edges of the sheets” reference to the specification can be made.

All that is necessary is to consider appellants’ Fig. 3 which depicts the gown in a “disassembled state before component parts thereof are bonded together” and appellants’ Fig. 2 which depicts the gown in an assembled state.

It is readily clear from a comparison of Figs. 3 and 2 that the gown is assembled by bonding only the edges of the sheet assemblies together.

That is, “the assembly sheets [are] bonded to each other exclusively along edges of the sheets” and are not bonded across the central portions of any of the sheet assemblies.

The examiner has relied upon King et al. as teaching “the patch (20) with adhesive strips (28), which are straight and linear and which bonds the sheets together along continuous bonding line extending along edges of the sheets as seen in figure 2.”

Appellants’ independent claim 1 requires, in part, a main body that includes a front body and a back body and sleeves extending from both sides of upper end of the main body, wherein the main body comprises a plurality of assembly sheets having air permeability and liquid non-permeability, which assembly sheets being bonded to each other exclusively along edges of the sheets using a continuous bonding line that extends along edges of the sheets.

The adhesive strips 28 which King et al. utilizes to secure the patch 20 to the front portion 14 of the gown 10 do not bond the patch and any other portion of the gown together exclusively along edges of such patch and any other portion of the gown using a continuous bonding line that extends along edges of the sheets.

The edges of the patch 20 are not even aligned with the edges of any other portion of the gown.

One skilled in the art would quickly recognize that appellants' manner of exclusively bonding the edges of the sheets together using a continuous bonding line that extends along edges of the sheets, is used to connect the front and back body portions and the sleeves together to form or assembly the gown.

In contrast, one skilled in the art would quickly recognize that King et al. only uses adhesive lines 28 to secure patch 20 to a portion of the gown – not to form or assembly the gown's overall shape.

Although the examiner is allowed to broadly interpret the claim limitations, she cannot interpret the claim language to exclude limitations in order to improperly read the prior art on appellants' claimed invention.

Moreover, the claims are to be interpreted in view of the specification, even though limitations from the specification are not to be read into the claims.

In the present situation, independent claim 1 recite that “the assembly sheets being bonded to each other exclusively along edges of the sheets using a continuous bonding line that extends along edges of the sheets.”

The limitation that the assembly sheets are bonded exclusively along their edges cannot be interpreted out of the claims so that the examiner can read King et al. on appellants' claims. This limitation must remain and if this limitation needs to be interpreted, it is proper to interpret this limitation in light of the specification (so long as no limitations not already in the claims are added).

Taking into account that the interpretation of the claim language is on the basis of one of ordinary skill in the art, appellants' submit that the language of the "the assembly sheets being bonded to each other exclusively along edges of the sheets using a continuous bonding line that extends along edges of the sheets" has to be interpreted as meaning that the assembly sheet are only, i.e. exclusively, bonded to each other along their edges by a continuous bonding line that extends along the their edges.

Actually, it is extremely doubtful that one skilled in the art would find it necessary to interpret the claim language in light of the specification, because the language of the claims is believed to be clear.

It is the examiner's interpretation of the claims as reading "only the sheets alone are exclusively connected to each other" that is unclear. It is doubtful that someone skill in the art would interpret appellants' claim limitation in this manner.

The issues raised by the examiner as to how the claim language is confusing an could be interpreted is more of an indefinite problem which appellants attempted to address in both their Amendment After Final and Supplemental Amendment After Final – after interviews with the examiner.

It is hope that the Board of Appeals will resolve this matter.

The reference to the edges of the assembly sheets in appellants' independent claim 1, i.e. that the sheets are bonded to each other (exclusively) along the edges of the sheets, distinguishes structurally over King et al. In this regard, it is noted that King et al. provide patch 20 so that it covers "central operative region 25." This central operative region 25 as shown in Fig. 1 is nowhere near any edges of the body portion 11 of King et al.

Accordingly the pocket 20 which is provided over the central operative region 25 is not near any edge of the body portion 11 so that King et al. does not bond the edges of patch 20 to any edge of the body portion 11, as would be required if King et al. truly anticipated appellants' independent claim 1.

It is appellants' position that King et al. does not anticipate appellants' claimed invention when appellants' claim language and the teachings of King et al. are properly considered.

CONCLUSION

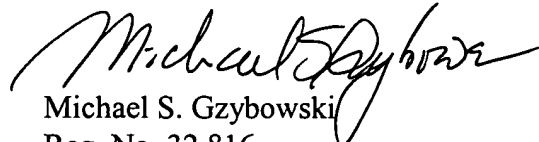
For the reasons advanced above, appellants respectfully contend that the rejection of claims 1-4 as being anticipated under 35 U.S.C. §102(b) by King et al. is improper because the examiner has not met his burden of establishing that King et al. teaches each and every one of the elements of claims 1-4.

Reversal of the rejection on appeal is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of

time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Gzybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3110

CLAIMS ON APPEAL

1. A disposable surgical gown, comprising:
a main body including a front body and a back body; and
sleeves extending from both sides of upper end of the main body, wherein the main body comprises a plurality of assembly sheets having air permeability and liquid non-permeability, the assembly sheets being bonded to each other exclusively along edges of the sheets using a continuous bonding line that extends along edges of the sheets.
2. A disposable surgical gown according to claim 1, wherein the bonding line is any one of a fusion-bonded seal line and a seal line using an adhesive.
3. A disposable surgical gown according to claim 1, wherein the bonding line is formed to be any one selected from a linear or straight bonding line, a wave-shaped bonding line, a zigzag bonding line, a lattice-shaped bonding line, a spiral bonding line, or a combination thereof.
4. A disposable surgical gown according to claim 1, wherein a plurality of discontinuous bonding portions are arranged adjacent the continuous bonding line.
5. A disposable surgical gown according to claims 1, wherein the bonding line is formed while the sheets are flowing along an assembly line; and

the width of the bonding line is a direction perpendicular to the flowing direction of the sheets is set to 0.1 mm to 15 mm.

6. A disposable surgical gown according to claims 1, further comprising:
an auxiliary member, which is provided at an inner upper end of the back body, wherein the auxiliary member is folded by an assistant when the gown is worn by a wearer.
7. A disposable surgical gown according to claims 6, wherein the auxiliary member comprises two parts which are arranged at upper corners of the back body.
8. A disposable surgical gown according to claims 7, wherein the two parts of the auxiliary member are shaped to be triangle pockets.
9. A disposable surgical gown according to claims 1, further comprising:
a water-absorbent sheet provided around a neck portion of the front body for absorbing sweat of a wearer.
10. A disposable surgical gown according to claims 9, wherein the water-absorbent sheet is shaped and arranged so as not to extend outwardly from an upper edge of the front body.
11. A disposable surgical gown according to claims 6, further comprising:

an water-absorbent sheet provided around a neck portion of the front body for absorbing sweat of a wearer.

12. A disposable surgical gown, comprising:

a main body including a front body and a back body;

sleeves extending from both sides of upper ends of the main body; and

an auxiliary member, which is provided at an inner upper end of the back body, wherein the auxiliary member is folded by an assistant when the gown is worn by a wearer.

13. A disposable surgical gown according to claims 12, wherein the auxiliary member comprises two parts which are arranged at upper corners of the back body.

14. A disposable surgical gown according to claims 13, wherein the two parts of the auxiliary member are shaped to be triangle pockets.

15. A disposable surgical gown according to claims 12, further comprising:
an water-absorbent body for absorbing sweat of a wearer.

16. A disposable surgical gown, comprising:

a main body including a front body and a back body;

sleeves extending from both sides of upper ends of the main body; and

an water-absorbent body for absorbing sweat of a wearer.

17. A disposable surgical gown according to claims 16, wherein the water-absorbent sheet is shaped and arranged so as not to extend outwardly from an upper edge of the front body.